

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

AO 91 (Rev. 11/11) Criminal Complaint

20 DEC -3 AM 11:39

UNITED STATES DISTRICT COURT

for the

District of New Mexico

CLERK-LAS CRUCES

United States of America

v.

Dustin John Charles

Case No.

20MJ1988

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of Apr 29, Sep 5, and Nov 30 of 2020 in the county of Dona Ana in the
District of New Mexico, the defendant(s) violated:Code Section
Title 18, U.S.C. 2261A(2)

Cyberstalking

Offense Description

This criminal complaint is based on these facts:

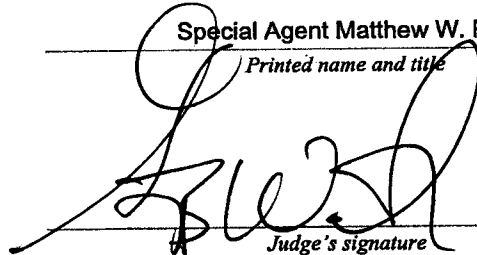
See Affidavit

☒ Continued on the attached sheet.Sworn to before me and signed telephonically. ~~in my presence.~~Date: 3 Dec 2020City and state: Las Cruces, New Mexico

Complainant's signature

Special Agent Matthew W. Ray

Printed name and title



Judge's signature

Gregory B Wormuth

Printed name and title
U.S. Magistrate Judge

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

AFFIDAVIT

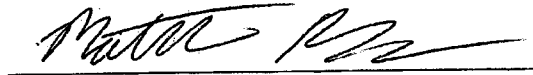
I, Matthew W. Ray, Special Agent (SA) of the Federal Bureau of Investigation (FBI), being duly sworn, do hereby depose and state:

1. I have been employed as an FBI SA since July 2018. I am currently assigned to the Albuquerque Division, Las Cruces Resident Agency (LCRA). As an FBI Agent, I am charged with investigating various violations of federal statutes, including cyberstalking.
2. The information contained herein is based upon my own investigation as well as information supplied to me by other law enforcement officers. I have not included all facts known to me concerning this matter, but only facts necessary to set forth probable cause.
3. This affidavit is in support of a criminal complaint charging Dustin John CHARLES (CHARLES), a citizen of the United States, for the use of an electronic communication system of interstate commerce to transmit a threat to injure or kill, in violation of Title 18 USC 2261A(2).
4. On or about November 30, 2020, the Las Cruces Sun-News Facebook page posted an online article titled "Las Cruces has a new chief of police. Get to know Miguel Dominguez." On this same day, CHARLES posted several comments on the Las Cruces Sun-News Facebook page in response to the article. One of the comments stated: "And this is why I'm more likely to shoot an LCPD officer rather than let them pull me over."
5. The FBI LCRA began an investigation on CHARLES in September 2020 after a request for assistance from the Las Cruces Police Department (LCPD). Based on this investigation, your affiant learned the following information:
6. On or about April 29, 2020, CHARLES utilized Facebook to post a photo of LCPD Officer L.C. with the caption "Have dreams of killing this scummy pirate." Prior to making this post, CHARLES sent L.C. a friend request on Facebook. L.C. accepted the request, not recognizing CHARLES from a previous interaction. Because they were Facebook friends, L.C. saw a post made by CHARLES in which CHARLES indicated he had captured a burglary suspect on camera with a link to a photo. When L.C. clicked the link on the post made by CHARLES,

L.C. was directed to the aforementioned post. Subsequently, L.C. reported that he did in fact see the threatening post by CHARLES. Additionally, CHARLES's post was public and was also seen and reported by the LCPD Public Information Officer.

7. On September 5, 2020, CHARLES sent an email utilizing Gmail to the New Mexico office of the American Civil Liberties Union (ACLU) stating the following: "Fuck nm and the aclu. When i kill "john" and [LCPD's L.C.], know it's because you failed."
8. On September 6, 2020, CHARLES sent another email utilizing Gmail to the ACLU which included the following: "On 9/10/2020, I will seek justice on my own if you again refuse to do your duty... Well, unfortunately, I cannot ignore the repeatedly reoccurring PTSD and the thoughts that come along with not having had the justice in this state..."
9. On or about September 10, 2020, your affiant telephonically interviewed CHARLES. CHARLES said that he sent the emails to the ACLU, including one about killing "john" and L.C., because he thought it would garner interest from the ACLU. CHARLES said he sent such emails because his emotions were elevated. CHARLES suffered from extreme stress but did not take medications for stress or anxiety. In addition, CHARLES did not feel safe and obtained several guns.
10. On or about September 16, 2020, your affiant telephonically interviewed CHARLES again. CHARLES said he knew his emails were wrong. Your affiant advised CHARLES his actions violated federal law and, if he conducted such activities in the future, he would be charged and arrested. CHARLES said he understood such activity in the future would result in charges.
11. Your affiant knows, based on training and experience, that Facebook and Gmail are electronic communication systems. Facebook allows for users to communicate via comments, posts, and private messaging. Gmail allows for users to send electronic communications via emails.
12. Your affiant knows, based on training and experience, that Facebook Users can establish their own privacy settings and determine what can be seen by others. Further, Facebook posts by one user are likely to be displayed on their "friends" timelines. Because CHARLES added L.C. as a friend on Facebook, it is probable that CHARLES would reasonably expect L.C. to see any posts CHARLES made on Facebook, including the post on April 29th. Because the November 30th posts were posted on a public Facebook page on an article specifically related to LCPD, it is probable that CHARLES would reasonably expect community members, including police officers like L.C., to see the posts.

13. Assistant United States Attorney Aaron Jordan approved prosecution in this matter.
14. Based on the foregoing, there is probable cause to believe that Dustin John CHARLES violated Title 18 USC 2261A(2), which makes it a crime for any person to use an electronic communication system of interstate commerce to transmit a threat to injure or kill.

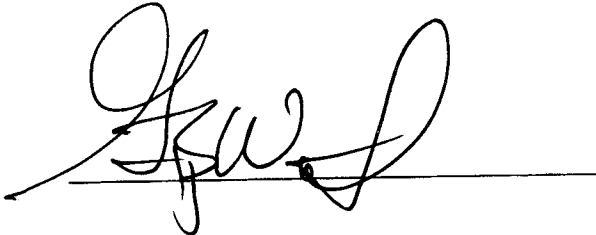


Matthew W. Ray, Special Agent

Federal Bureau of Investigation

Sworn to before me this

31 day of December 2020.



HONORABLE GREGORY B. WORMUTH

UNITED STATES MAGISTRATE JUDGE